

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 29**

**IBI ARMORED SERVICES, INC.**

**Employer**

**and**

**Case 29-RC-250868**

**SPECIAL AND SUPERIOR OFFICERS  
BENEVOLENT ASSOCIATION**

**Petitioner**

**DECISION AND DIRECTION OF SECOND ELECTION**

The Employer, IBI Armored Services, Inc., provides secure cash management logistic solutions and secure transportation services with an office and place of business in Woodside, New York. On October 31, 2019, Special and Superior Officers Benevolent Association (the Petitioner) filed a representation petition with the National Labor Relations Board (the Board) under Section 9(c) of the National Labor Relations Act (the Act). Petitioner seeks to represent a unit of approximately 58 full-time and regular part-time armed and unarmed couriers.

The sole issue in this case is whether, in light of the continuing COVID-19 pandemic<sup>1</sup>, the Region should conduct an election by manual or mail ballot. On September 10, 2020, Hearing Officer Matthew A. Jackson conducted the hearing in this matter by videoconference, during which the parties were invited to present their positions and supporting evidence regarding the sole issue of whether the election should be conducted manually or by mail. None of the parties called any witnesses to testify but instead stated their positions on the record. Neither party wished to file a post-hearing brief.

The Board has delegated its authority in this proceeding to me under Section 3(b) of the Act. Based on the entire record in this proceeding, relevant Board law, and the extraordinary circumstances of a pandemic, for the reasons described more fully below, I am directing a mail ballot election.

**Procedural History and Positions of the Parties**

On November 12, 2019, I approved a Stipulated Election Agreement in which the parties agreed that an election would be held at the Employer's facility located at 37-06 61<sup>st</sup> Street, Woodside, New York on December 6, 2019. Before the results were certified, the Petitioner timely filed two objections to conduct affecting the results of the election. On December 20, 2019, I issued a Report on Objections and Notice of Hearing directing a hearing on one of the objections, which asserted that the Employer failed to post the Notices of Election. A hearing was held before a Hearing Officer on January 15, 2020<sup>2</sup>, and, on January 31, the Hearing Officer issued a Report in which she recommended sustaining the Petitioner's objection. The Employer

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<sup>1</sup> Throughout this decision, the terms "COVID-19," "COVID," "Coronavirus" and "pandemic" are used interchangeably.

<sup>2</sup> All subsequent dates herein are 2020 unless otherwise specified.

filed exceptions to the Hearing Officer's findings. On March 18, I issued a Decision and Direction of Election in which I sustained the Petitioner's objection and directed a second election. The Decision and Direction of Election provided that the date, time and place of the election would be specified in a Notice of Second Election that would be issued on a date to be determined.

The following day, March 19, the Board temporarily suspended all representation elections due to public health and safety concerns related to the COVID-19 pandemic. On July 8, after the Board resumed conducting elections, I issued a Notice to Show Cause directing the parties to show cause, if any, as to why I should not order the second election to be conducted by mail ballot. On July 17, the Employer submitted a response opposing a mail ballot. After considering the Parties' positions, by order dated August 27, I revoked approval of the November 12, 2019 Stipulated Election Agreement, which called for an in-person manual election, and ordered that a hearing commence on September 10.

The Employer asserts that a manual election is appropriate because unit employees are essential workers and have been reporting to work throughout the pandemic. It contends that a manual election may result in greater turnout because, although it has addresses for all unit employees, it cannot be sure those addresses are current. The Employer is willing to implement certain safety protocols discussed herein. The Union, on the other hand, contends that a manual election would result in unnecessary risks to all the parties involved and that a mail ballot election is the better course of action.

### **The COVID-19 Pandemic**

At the outset, I take administrative notice of the current public health crisis created by the COVID-19 pandemic. As of October 19, there have been over 8.1 million confirmed cases of COVID-19 in the United States, and 219,541 deaths.<sup>3</sup> New York City has seen 3276 new cases and 42 deaths in the last seven days.<sup>4</sup> I also take administrative notice of the information, guidance and recommendations of the Centers for Disease Control and Prevention (CDC), an agency of the United States Government.<sup>5</sup> The CDC recommendations for dealing with this public health threat include, among others, the avoidance of large gatherings, the use of cloth face coverings, and social distancing. The CDC further states that the virus can survive for a short period on some surfaces, and that it is possible to contract COVID-19 by touching a surface or object that has the virus on it and then touching one's mouth, nose, or eyes.<sup>6</sup>

Although the CDC has not directly addressed Board elections, it has issued guidance on elections in general. Its "Considerations for Election Polling Locations and Voters" states that officials should consider alternative voting methods where permitted, and that "[v]oting

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<sup>3</sup> See *Coronavirus in the U.S.: Latest Map and Case Counts*, NEW YORK TIMES, updated October 19, 2020, <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html>

<sup>4</sup>[https://covid.cdc.gov/covid-data-tracker/#cases\\_casesinlast7days](https://covid.cdc.gov/covid-data-tracker/#cases_casesinlast7days)

<sup>5</sup> See <https://www.cdc.gov/coronavirus/2019-ncov/faq.html>.

<sup>6</sup> See <https://www.cdc.gov/coronavirus/2019-ncov/faq.html#How-to-Protect-Yourself>.

alternatives that limit the number of people you come in contact with or the amount of time you are in contact with others can help reduce the spread of COVID-19....”<sup>7</sup>

I note that the CDC has recently revised its guidelines to include the possibility that COVID-19 may be spread not only by aerosol but by airborne transmission as well, which means that it can be spread over greater distances and by smaller particles than previously thought possible.<sup>8</sup> Factors which can result in such transmission include enclosed spaces, prolonged exposure (greater than 30 minutes) to respiratory particles and inadequate ventilation or air handling.

### **Board Law and Guidance Regarding Elections**

Whether an election is to be conducted by mail, manually, or by some other method is an administrative matter to be determined by the Regional Director. *National Van Lines*, 120 NLRB 1343 (1958). Traditionally, most Board elections are conducted by manual voting and there is a presumption in favor of conducting elections in this manner. *See* Section 11301.2, *NLRB Casehandling Manual, Part Two, Representation Proceedings*. However, when certain factors are present, this presumption may be overcome. In *San Diego Gas & Electric*, 325 NLRB 1143 (1998), the Board recognized that mail ballot elections are appropriate under specific, well-settled guidelines, such as where employees are scattered or where there is a strike, lockout, or picketing in place. The Board further found that a Regional Director may consider additional relevant factors when contemplating whether to conduct a mail ballot election and that “extraordinary circumstances” could permit a Regional Director to do so. *See San Diego Gas & Electric*, 325 NLRB at 1145. The Board has recognized that the COVID-19 pandemic presents such an extraordinary circumstance. *See, e.g., Atlas Pacific Engineering Co.*, 27-RC-258742 (Order dated May 8, 2020).

On March 19, in response to the pandemic, the Board temporarily suspended all Board-conducted elections through April 3, 2020. The Board took this action to ensure the safety of Agency employees and members of the public involved in elections. At the time, several of the NLRB’s regional offices had been closed and other locations were operating with limited staffing such that the Board did not believe it was possible to effectively conduct elections. On April 1, the NLRB announced that it would not extend the suspension of elections past April 3 and would “permit elections to resume in a safe and effective manner, which will be determined by the Regional Directors.” The Agency has indeed resumed conducting elections, but the vast majority of these elections have been conducted by mail ballot.

On July 6, General Counsel Peter Robb issued a memorandum titled “Suggested Manual Election Protocols.” (GC 20-10). In that memorandum, the General Counsel acknowledged that the protocols suggested therein are not binding on Regional Directors because the Board, not the General Counsel, has authority over matters of representation, and he reiterated that Regional Directors have the authority, delegated by the Board, to make “initial decisions about when, how,

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<sup>7</sup> See <https://www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html>.

<sup>8</sup> See <https://www.cdc.gov/coronavirus/2019-ncov/more/scientific-brief-sars-cov-2.html>

and in what manner all elections are conducted.” The General Counsel further notes Regional Directors have, and will:

make these decisions on a case-by-case basis, considering numerous variables, including, but not limited to, the safety of Board Agents and participants when conducting the election, the size of the proposed bargaining unit, the location of the election, the staff required to operate the election, and the status of pandemic outbreak in the election locality.

Among other suggestions in GC 20-10, the General Counsel proposes self-certification that individuals in proximity to the polling place, including observers and party representatives, have not tested positive for COVID-19, come into contact with someone who tested positive within the preceding 14 days, are not awaiting test results, and are not exhibiting COVID-19 symptoms. However, the CDC’s “current best estimate” is that 50% of COVID-19 transmission occurs while people are pre-symptomatic and 40% of people with COVID-19 are asymptomatic<sup>9</sup> and thus would neither be identified nor have sought testing.

In addition to the self-certification recommendations, GC 20-10 contains ten specific protocols to be addressed in any Stipulated Election Agreement or Decision and Direction of Election in which a manual election is to be conducted:

A. Spacious polling area, sufficient to accommodate six-foot distancing, which should be marked on the floor with tape to insure separation for observers, Board Agent, and voters.

B. Separate entrance and exit for voters, with markings to depict safe traffic flow throughout polling area.

C. Separate tables spaced six feet apart so Board Agent, observers, ballot booth and ballot box are at least six feet apart.

D. The Employer will provide markings on the floor to remind/enforce social distancing.

E. The Employer will provide sufficient disposable pencils without erasers for each voter to mark their ballot.

F. The Employer will provide glue sticks or tape to seal challenged ballot envelopes.

G. The Employer will provide plexiglass barriers of sufficient size to protect the observers and Board Agent to separate observers and the Board Agent from voters and each other, pre-election conference and ballot count attendees, as well as masks, hand sanitizer, gloves and wipes for observers.

H. The Agency will provide to the Board Agent(s) running the election a face shield, mask, disposable clothes covering if requested, hand sanitizer, gloves and disinfecting wipes.

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<sup>9</sup> “COVID-19 Pandemic Planning Scenarios” (updated September 10, 2020).  
<https://www.cdc.gov/coronavirus/2019-ncov/hcp/planning-scenarios.html>

I. An inspection of the polling area will be conducted by video conference at least 24 hours prior to the election so that the Board Agent and parties can view the polling area.

J. In accordance with CDC guidance, all voters, observers, party representatives, and other participants should wear CDC-conforming masks in all phases of the election, including the pre-election conference, in the polling area or while observing the count. Signs will be posted in or immediately adjacent to the Notice of Election to notify voters, observers, party representatives and other participants of this requirement.

GC 20-10 does not provide an enforcement mechanism for any of its suggestions other than canceling an election, which would delay resolution of the question concerning representation.

Regional Directors and the Board itself have been ruling in favor of mail ballots in most, if not all, cases where the issue has been raised. The Board has denied review of Regional Directors' decisions to conduct mail-ballot elections due to local COVID-19 circumstances even though employers have offered to follow the same or similar protocols as those identified in GC 20-10. *See, for example, Johnson Controls, Inc.*, Case 16-RC-256972 (Order dated May 18, 2020) (denying review where employer had zero COVID-19 cases, daily screened all individuals accessing the facility for symptoms, mandated face coverings and social distancing, and offered an outdoor election with plexiglass barriers, sanitizer, single-use writing utensils, floor markings for social distancing, masks, and gloves). In an Order denying a request for review in *Brink's Global Services USA, Inc.*, Case 29-RC-260969, the Board addressed a mail-ballot determination in the context of the COVID-19 pandemic and with consideration of GC 20-10. The Board noted that it "will continue to consider whether manual elections should be directed based on the circumstances then prevailing in the region charged with conducting the election, including the applicability to such a determination of the suggested protocols set forth in GC Memorandum 20-10." (Order dated July 14, 2020, fn. 2).

The Board has continued to deny review and to defer to the soundly exercised discretion of Regional Directors in cases where mail balloting was ordered. *See, e.g., Savage Services Corp.*, 21-RD-264617, rev. denied 10/1/20; *Jersey Shore University Medical Center*, 22-RC-263932, rev. denied 10/1/20; *Sea World of Florida, LLC*, 12-RC-257917, rev. and request denied 9/22/20; *Rising Ground*, 02-RC-264192, rev. and motion denied 9/8/20; *Antioch Tire, Inc., d/b/a TredRoc Tire Service*, Case 13-RC-263043, rev. denied 8/19/20; *Daylight Transport, LLC*, 31-RC-262633, rev. denied 8/19/20; *PACE Southeast Michigan*, Cases 07-RC-257046 and 07-RC-257047, rev. denied 8/7/20; *SunSteel, LLC*, 19-RC-261739, rev. denied 8/4/20; *Roseland Community Hospital*, 13-RC-259788, rev. and request denied 6/25/20; *TDS Metrocom, LLC*, 18-RC-260318, rev. denied 6/23/20; *Vistar Transportation, LLC*, 09-RC-260125, rev. denied 6/12/20; *Twinbrook Health & Rehabilitation Center*, 06-RC-257382, rev. denied 6/5/20; *Seminole Electric Cooperative, Inc.*, 12-RC-256815, rev. denied 5/28/20; *2101 LLC d/b/a Intercontinental Truck Body*, 19-RC-258144, rev. denied 5/28/20; *Roseland Community Hospital*, 13-RC-256995, rev. denied 5/26/20; *Touchpoint Support Services*, 07-RC-258867, rev. denied 5/18/20; and *Atlas Pacific*, 27-RC-258742, rev. denied 5/8/20.

Recently, in a number of cases, the Board has granted requests for review of Regional Directors' decisions ordering mail ballot elections and issued stays of those elections, including: *Aspirus Keweenaw*, 370 NLRB No. 13 (August 25, 2020); *Draper Valley Farms*, 370 NLRB No. 20 (September 9, 2020); *Purdue Foods LLC*, 370 NLRB No. 20 (Sept. 15, 2020); *ClarkWestern Dietrich Building Systems, LLC*, 01-RC-264014 (unpublished September 16, 2020)<sup>10</sup>; *Airgas USA, LLC*, 16-RC-262896 (unpublished September 24, 2020); *Ecolab Production LLC*, 16-RC-264667 (unpublished October 1, 2020); *CR&R Incorporated*, 21-RC-262469 and -262474 (unpublished October 9, 2020) and *JDRC Managed Services, LLC*, 25-RC-265109. Most of these cases involve small units in remote areas or units in suburban locations that have very low rates of COVID-19 infection. In all of these cases, as well as almost all of the cases for which review was denied, the party or parties seeking a manual election presented extensive evidence regarding safety protocols that would be implemented if a manual election were directed. In none of these cases has the Board established a new or different standard for analyzing whether petitions filed during the COVID-19 pandemic are or are not appropriate for mail ballot elections nor has it issued a ruling in those cases that impacts my conclusions and findings herein.

### **Proposed Election Arrangements**

The 2019 election was held in the truck bay at the Employer's facility. Evidently one or both the parties felt that the location was not optimal and, at the hearing, Employer's counsel suggested holding the election in a vestibule around the corner. That entrance is highly secured and anyone entering the vestibule must be admitted by an attendant. The visitor is "buzzed in" through an outside door into a smaller area with a window into a receptionist's office where the door control is located. After the visitor enters and checks in, the receptionist buzzes them through another door into the actual vestibule. Employer's counsel described both the outer entrance and the vestibule itself as "mantraps" because, once inside either area, the visitor cannot leave until they are either buzzed back out the way they came in or are admitted into the main office area through another secured door on the other side of the vestibule.

Employer's counsel stated that the vestibule was about 200 square feet and contained two chairs and a coffee table. In addition to serving as a waiting area for visitors, this vestibule is frequently used by non-unit employees to enter the office areas. However, that is not the only entrance those employees can use and the Employer offered to place signs on election day that would direct office employees to use another entrance. Employer's counsel said that a non-supervisory employee could be stationed at the reception desk on the day of the election to "buzz" voters in and out. Because of the small size of the room, social distancing requirements would require that voters enter one at a time. Others would have to wait outside until the previous voter exited through the same doors they entered.

When questioned about how employees' voting one at a time might affect their ability to start their routes on time, Employer's counsel said that they "would have to" accommodate that somehow. Other than this acknowledgement, counsel for the Employer did not suggest any specific polling hours, nor was he able to give an approximate number of eligible voters,

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<sup>10</sup> The Board subsequently granted the Acting Regional Director's request for remand on October 6.

although it appears that he expected there could be fewer than in the previous election. The parties agreed that most unit employees still received physical paychecks on Fridays, but they were not sure whether more employees might be present on a Friday or on some other day of the week. I note that the December 2019 election was held on a Friday from 6:00 to 8:30 a.m. and from 4:30 to 7:00 p.m. and there were 58 eligible voters. This total polling time of five hours obviously did not account for the requirement that only one voter enter the polling area at a time and that other voters would have to wait until all the employees ahead of them completed the entire voting process.

With regard to the considerations set forth in GC 20-10, the Employer could mark off six feet distances within the polling area. As described above, the Employer could not accommodate separate entrances and exits and voters would also have to pass through an even smaller intermediate area before being admitted to the actual voting area. The Employer believes it can accommodate separate tables spaced six feet apart for the Board agent, observers and ballot box and could provide sufficient disposable pencils without erasers for each voter to mark his or her ballot. They are willing to provide glue sticks with which to seal challenged ballot envelopes, as well as masks, hand sanitizer, gloves and wipes and could arrange for plexiglass barriers. The Employer would allow for an inspection of the polling area by all parties at least 24 hours prior to the election and would place signs to remind participants that they must wear CDC-conforming masks during all phases of the election.

### **Analysis**

The conduct of a manual election invariably requires participants to come within fewer than six feet of one another, while social distancing guidelines provided by Federal, State and Local authorities recommend that individuals remain at least six feet apart. Under the Board's manual election procedures, Board agents conducting the election and election observers are required to spend the duration of the polling session and ballot count process together in close proximity. Board agents and observers will likely have to interact with voters and/or party representatives who may have questions or who may wish to raise issues about the conduct of the election especially where, as in the instant case, a number of challenges are expected. These procedures necessarily carry the risk of exposure for employees, party representatives, Board personnel, their families, and the community.

The suggested protocols for a safely conducted manual election include: polling times sufficient to accommodate social distancing without unnecessarily elongating exposure among Board Agents and observers; the employer's certification in writing that polling area is consistently cleaned in conformity with CDC standards; a spacious polling area, sufficient to accommodate six-foot distancing; separate entrances and exits for voters; separate tables spaced six feet apart; sufficient disposable pencils without erasers for each voter to mark their ballot; glue sticks or tape to seal challenged ballot envelopes; plexiglass barriers of sufficient size to protect the observers and Board Agent; and provision of masks, hand sanitizer, gloves and disinfecting wipes.

I note that, while the Employer is willing to meet some of these safety protocols, there is no evidence that bargaining unit employees are tested for COVID or that the Employer requires temperature checks to enter its facility. It is undisputed that the bargaining unit employees herein were and are still considered essential workers and many or all of them have continued to work throughout the pandemic.<sup>11</sup> However, their work has necessarily required that they come into frequent contact with a variety of individuals thus making it more likely that they have and will come into contact with those who may have been infected. Moreover, an election necessarily involves more people than just the bargaining unit employees.

Also absent from the record is any information about cleaning procedures used in the facility and, specifically, whether and how often the voting area is cleaned. The description of the polling area as a “very secure” area that is generally used as an employee entrance and as a waiting room for visitors means that it is tightly enclosed and may not provide for adequate ventilation. Even though the room itself is approximately 200 square feet, it appears that voters would have to enter and exit through the same, much smaller area where some unidentified individual would be stationed to operate the door control. As noted above, under newer CDC guidelines, enclosed spaces, prolonged exposure times and inadequate ventilation are even more of a concern than previously thought.

I acknowledge that the Employer is concerned that it may not have correct addresses for all unit employees, especially since many of them pick up their paychecks in person. However, since Notices of Election are required to be posted at the facility whether the election is conducted by mail or in person, those employees will be aware of the election and may request a ballot even if they do not receive one due to an incorrect address.

The safety of the voters, the observers, the party representatives, the Board agents conducting the election, and the public must be considered in determining the appropriate method for conducting the election. Mail balloting provides no additional risk and is consistent with current guidance of limiting in-person contact and travel. Even in the midst of this pandemic, the Region has already successfully conducted a number of mail ballot elections. Based on the above and the record as a whole, I find that the COVID-19 pandemic presents an extraordinary circumstance that makes the conduct of a mail ballot election the most responsible and appropriate election method in this case.

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<sup>11</sup> The record contains a guidance memorandum issued by Cybersecurity and Infrastructure Security Agency (CISA), a Division of the U.S. Department of Homeland Security, on March 19, which identifies a wide range of industries and sectors that may employ critical infrastructure workers including healthcare, law enforcement, financial services and transportation and logistics and financial services. However, the memorandum itself states that the list “is advisory in nature. It is not, nor should it be considered to be, a federal directive or standard in and of itself...All decisions should appropriately balance public safety while ensuring continued delivery of critical infrastructure services and functions.”



## **CONCLUSIONS AND FINDINGS**

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The rulings at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time employees who perform guard duties as defined in Section 9(b)(3) of the Act, including armed and unarmed couriers employed by the Employer at its facility located at 37-06 61<sup>st</sup> Street, Woodside, New York but excluding all office clerical employees, professional employees, dispatchers, leads and supervisors as defined in the Act.

The Parties agree that Vault Department employees and Coin Department employees may vote subject to challenge. No decision has been made regarding whether the employees in these classifications are included in, or excluded from, the bargaining unit. The eligibility of inclusion of these employees will be resolved, if necessary, following the election.

## **DIRECTION OF ELECTION**

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by Special and Superior Officers Benevolent Association.

### **A. Election Details**

I have determined that a mail ballot election will be held. The ballots will be mailed to employees employed in the appropriate collective-bargaining unit from the National Labor Relations Board, Region 29, on **November 2, 2020**. Voters must sign the outside of the envelope

in which the ballot is returned. Any ballot received in an envelope that is not signed will be automatically void. The mail ballots will be counted by video conference on a date and at a time and manner to be determined by the Regional Director after consultation with the parties.

Voters must return their mail ballots so that they will be received in the National Labor Relations Board, Region 29 office by close of business on **November 23, 2020**.

If any eligible voter does not receive a mail ballot or otherwise requires a duplicate mail ballot kit, he or she should contact **Matthew Jackson** via telephone at **(718) 765-6202** or via e-mail at **Matthew.Jackson@nlrb.gov** by no later than 5:00 p.m. on **November 11, 2020** in order to arrange for another mail ballot kit to be sent to that employee.

### **B. Voting Eligibility**

Eligible to vote in the second election are those employees in the unit who were employed during the payroll period ending **October 16, 2020**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the date of the first election, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Also eligible to vote using the Board's challenged ballot procedure are those individuals employed in the classifications whose eligibility remains unresolved as specified above and in the Notice of Election.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

### **C. Voter List**

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties by **Monday, October 26, 2020**. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015).

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at [www.nlr.gov](http://www.nlr.gov). Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

#### **D. Posting of Notices of Election**

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution. Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

#### **RIGHT TO REQUEST REVIEW**

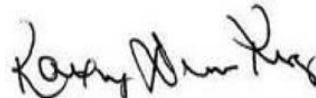
Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 10 business days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is

not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review must be E-Filed through the Agency's website and may not be filed by facsimile. To E-File the request for review, go to [www.nlr.gov](http://www.nlr.gov), select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001, and must be accompanied by a statement explaining the circumstances concerning not having access to the Agency's E-Filing system or why filing electronically would impose an undue burden. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board. If a request for review of a pre-election decision and direction of election is filed within 10 business days after issuance of the decision and if the Board has not already ruled on the request and therefore the issue under review remains unresolved, all ballots will be impounded. Nonetheless, parties retain the right to file a request for review at any subsequent time until 10 business days following final disposition of the proceeding, but without automatic impoundment of ballots.

Dated: October 22, 2020



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